

## Conference Sponsorship and Conference Planning: Relevant Ethics and Fiscal Issues

### I. REFERENCES

#### A. Government/Executive Branch

1. E.O. 12731, 14 Principles of Ethical Conduct for Employees of the Executive Branch.
2. GSA Memorandum, Guidance for Conducting Conferences, 25 April 2003.
3. 5 C.F.R. § 2635.808, Fundraising  
([http://www.usoge.gov/laws\\_regs/regulations/5cfr2635.aspx](http://www.usoge.gov/laws_regs/regulations/5cfr2635.aspx))
4. Office of Legal Counsel Memorandum Opinion for the General Counsel, Environmental Protection Agency, *Use of Appropriated Funds to Provide Light Refreshments to non-Federal Participants at EPA Conferences*, April 5, 2007.  
(<http://www.justice.gov/olc/2007/epa-light-refreshments13.pdf>)

#### B. Government/Legislative Branch

1. 5 U.S.C. §§ 4101-4106, Government Employees' Incentive Awards Act.
2. 10 U.S.C. § 1124, Military Cash Awards.
3. 10 U.S.C. § 1125, Military Awards and Recognition.
4. 10 U.S.C. § 2262, Department of Defense Conferences: collection of fees to cover Department of Defense costs
5. 31 U.S.C. § 1301, the Purpose Statute.
6. 31 U.S.C. §§ 1341-1342, 1511-1519, the Anti-Deficiency Act
7. 31 U.S.C. § 1535, the Economy Act.
8. 31 U.S.C. § 3302(b), the Miscellaneous Receipts Statute.

9. Decisions of the Comptroller General.

- a. Letter from the GAO to the Honorable Barbara A. Mikulski, *Contractors Collecting Fees at Agency-Hosted Conferences*, B-306663, January 4, 2006 (<http://www.gao.gov/decisions/appro/306663.pdf>) and DoD SOCO website
- b. Letter from the GAO to the National Institutes of Health – *Food at Government-Sponsored Conferences*, B-300826, March 3, 2005 (<http://www.gao.gov/decisions/appro/300826.htm>)

C. Department of Defense

1. DoD 5500.7-R, Joint Ethics Regulation, sections 3-206, 3-208, and 3-211 ([http://www.dod.mil/dodgc/defense\\_ethics/ethics\\_regulation/jer1-6.doc](http://www.dod.mil/dodgc/defense_ethics/ethics_regulation/jer1-6.doc))
2. DoDD 5410.18, 11/13/2001, *Public Affairs Community Relations Policy* (<http://www.dtic.mil/whs/directives/corres/pdf/541018p.pdf>)
3. DoDI 5410.19, 11/20/2001, *Public Affairs Community Relations Implementation* (<http://www.dtic.mil/whs/directives/corres/pdf/541019p.pdf>)
4. DoD 7000.14-R, *Financial Management Regulation*, January 2010 (<http://comptroller.defense.gov/fmr/index.html>)
5. Memorandum for Under Secretary of Defense (Comptroller), *Use of Appropriated Funds to Purchase Food at Conferences, Meetings, and Events*, September 1, 2005
6. Memorandum, Under Secretary of Defense (Comptroller), *Collection and Retention of Conference Fees from Non-Federal Sources*, 12 February 2007
7. Memorandum, Deputy Secretary of Defense, *Payment of Fees for Guest Speakers, Lecturers, and Panelists*, 3 April 2007
8. Joint Federal Travel Regulation and Joint Travel Regulation, Appendix R. ([http://www.defensetravel.dod.mil/perdiem/jftr\(aa-au\).pdf](http://www.defensetravel.dod.mil/perdiem/jftr(aa-au).pdf))

D. Department of the Army

1. Memorandum, General Counsel of the Department of the Army, *Designation of Deputy Designated Agency Ethics Officials and Delegation of Authority UP the Joint Ethics Regulation (JER), DoD 5500.7-R*

E. Department of the Navy

1. OPNAVINST 5050.24F (<http://doni.daps.dla.mil/Directives/05000%20General%20Management%20Security>)

%20and%20Safety%20Services/05-00%20General%20Admin%20and%20Management%20Support/5050.24F.pdf)

2. MCO 7300.22A  
(<http://www.marines.mil/news/publications/Documents/MCO%207300.22A.pdf>)
3. MARADMIN 229/07, *Conference Fees*, 27 March 2007  
(<http://www.marines.mil/news/messages/Pages/2007/CONFERENCE%20FEES.aspx>)

#### F. Department of the Air Force

1. AFI 65-601v1, *Budget Guidance and Procedure*, paragraph 4.42  
(<http://www.af.mil/shared/media/epubs/AFI65-601V1.pdf>)
2. Memorandum, SAF/GCA, Subject: Government Accountability Office (GAO) and Department of Defense (DoD) General Counsel's Office Opinions on Conference Fees and Providing Food at Conferences, 5 October 2005.

#### G. NGB Publications

1. Memorandum, NGB-ARZ, Subject: ARNG Policy for the Conduct of Official Conferences and Meetings, 1 May 2005.

## **II. ETHICAL PRINCIPLES COMMONLY INVOLVED IN CONFERENCES**

- A. Government resources and funds may not be used for other than authorized purposes.
- B. Government personnel may not offer preferential treatment to any private organization or individual.
- C. Government personnel shall disclose waste, fraud, abuse, and corruption.
- D. Government personnel shall not use public office for private gain.
- E. Government personnel shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
- F. Government personnel shall not solicit or accept any gift from any person or entity seeking official action from, doing business with DoD, or whose interests may be substantially affected by the performance or nonperformance of your duties.

## **III. CONFERENCES SPONSORED BY DOD AGENCIES (ATTENDED BY FEDERAL PERSONNEL AND NON-FEDERAL PERSONNEL)**

- A. DoD Agencies must ensure that conference expenditures provide the greatest benefit to the Government.

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1. Ensure appropriate management oversight of the conference planning process,
  2. Perform cost comparisons of the size, scope, and location,
  3. Determine if a Government facility is available at a lesser rate,
  4. Consider alternatives to a conference, *e.g.*, teleconferencing, consolidating the event with another event, and
  5. Maintain written documentation of the alternatives considered and the selection rationale used. DoD Agencies must maintain a record of the cost of each alternative conference site considered for each conference sponsored or funded, in whole or in part, for 30 or more attendees. A minimum of three sites must be considered for the conference and the documentation must be available for inspection by the Office of the Inspector General or other interested parties.
  6. Develop and establish internal policies and controls that ensure these standards are met. ***NOTE: Individuals must have the requisite contracting authority to obligate the Government in connection with conference arrangements.***
- B. Conference Cost Considerations. DoD Agencies should consider all direct and indirect conference costs paid by the Government, and, where possible, compare costs of alternatives:
1. Travel and per diem expenses,
  2. Rent of rooms for official business,
  3. Costs for audiovisual and other equipment,
  4. Computer and telephone access fees,
  5. Light refreshments or meals,
  6. Printing costs,
  7. Registration fees and administrative costs,
  8. Ground transportation, and
  9. Attendees' travel and time costs.
- C. Locality Per Diem Rate. Initial selection of a location must be based on the established per diem rate; however, to provide DoD Agencies flexibility in the selection of the appropriate lodging facility at the most advantageous location, the lodging portion of the established per diem rate may be exceeded by up to 25 percent, if necessary. For example, if the established geographical lodging portion of the per diem rate is \$100,

then facilities with lodging rates up to \$125 may be considered when selecting the conference location.

D. Conference Site Selection. DoD services and agencies should select conference sites that minimize conference costs to the extent possible. Consider the required attendees and their travel expenses within the overall costs of the conference.

E. Food And Refreshments At Conferences.

1. As a general rule, food for DoD personnel is a personal expense for which appropriated funds may not be used. For conferences, food may be provided under the following exceptions:

- a. Training Conference: Food may be provided when necessary to obtain the full benefit of the training. Note: alcoholic beverages are excluded. 5 U.S.C. § 4109. Agencies must analyze the circumstances and determine whether food or refreshments are a necessary expense and whether they are necessary to obtain the full benefit of the training.
- b. Formal Conference: A formal conference is one involving matters of topical interest to multiple agencies and/or non-Governmental attendees, and may require registration, a published and substantial agenda, and scheduled speakers. To use appropriated funds to pay for food at such a conference, the food must be incidental to the conference, attendance at events with food is important to ensure full participation, and the conference includes substantial functions occurring separately from the food events. GAO letter, B-300826, above. Note: alcoholic beverages are excluded.
- c. Subsistence, including food and light refreshments, may be provided at government expense to nongovernmental participants only in accordance with Reference A4.

F. Conference Fees.

1. Federal Agencies, in general.

- a. Absent affirmative statutory authority, Federal Agencies may not collect conference fees, including exhibitor fees, from individual attendees, including Government personnel, or use such fees to offset the cost of the conference or to reimburse the appropriation from which the conference is funded. (CompGen Letter, B-300826, 3/3/2005, above.) The GAO re-confirmed its opinion in GAO letter, B-306663, 1/04/2006, above. The miscellaneous receipts statute, above, (MRS) requires that such funds that are inadvertently collected must be deposited in the Treasury. Prior to DoD's receipt of statutory authority, a memorandum from the DoD Deputy General Counsel (Fiscal) confirmed application of this ruling to DoD, (Memorandum for Under Secretary of Defense (Comptroller), *Use*

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*of Appropriated Funds to Purchase Food at Conferences, Meetings, and Events, September 1, 2005.*)

- b. DoD has statutory authority to collect conference fees (10 U.S.C. § 2262). On February 12, 2007, the Undersecretary of Defense (Comptroller) issued preliminary authority permitting DoD agencies to collect conference fees. That authority has been implemented in Volume 12, Chapter 32, of the FMR.
  - c. The Air Force requires its components sponsoring a formal conference to pay for the entire costs from their O&M budgets without attempting to recover costs through registration fees. (AFI 65-601v1, paragraph 4.42. reference I.D.1.) The Air Force has not yet changed its instruction, but AF position is to collect conference fees in accordance with the DoD FMR. Air Force agencies wishing to collect conference fees should coordinate with their FM for further guidance.
  - d. Consistent with Reference ID and the DoD FMR, the Army has implemented the authority to collect conference fees.
  - e. Consistent with Reference IE3, the Department of the Navy requires its sub-elements to submit a request to ASN (FM&C) to collect conference fees. The Marine Corps has chosen not to implement this authority and to fund its conferences out of appropriated funds.
2. DoD Authority To Accept Conference Fees At Official DoD Conferences And Meetings.
- a. The Secretary of Defense is authorized to collect fees from individual and industry participants at DoD conferences. Section 1051 of the National Defense Authorization Act for FY 2007 (P.L. 109-364), codified at 10 U.S.C. § 2262.
    - (1) The statute authorizes DoD conference planners and managers to implement the fee collection authority. The DoD FMR, Volume 12, Chapter 32, paragraph 320202, permits DoD Components collecting fees by contract, to include contractors under no-cost contracts, to structure such contracts to permit contractors to offset from fees collected the actual costs incurred by the contractor (to include its fee) in providing conference-related services. Fee collections in excess of such amounts shall be credited to the appropriation from which other conference costs are payable. DoD Components shall be responsible for the oversight regarding the setting of appropriate fee amounts and the reporting of fees collected and costs paid by the contractor, including the requirement that collected fees must be credited to the appropriation or account from which the conference costs are paid, must be used to pay or reimburse those costs, and any amount that exceeds those costs must be deposited into the Treasury as miscellaneous receipts.

- (2) All other Federal laws and regulations, including DoD regulations regarding conferences and conference planning, the Federal Acquisition Regulation, the DoD FAR Supplement, and the Joint Ethics Regulation must be followed. This authority does not increase or affect any other currently existing conference authority. DoD FMR paragraph 320201.
  - (3) DoD may not provide unauthorized support to or endorsement of NFEs. Guidance on how to execute this authority follows.
- b. Fees. Because receipts that exceed costs must be turned over to the Treasury as miscellaneous receipts, the totality of the fees (attendance and exhibitor) should be structured so as not to exceed the anticipated costs of the conference. DoD FMR paragraph 320303H.
- (1) Attendance Fees: DoD may charge a fee to all attendees, including Government personnel. DoD may charge different rates for attendees, e.g., DoD, other Federal and state government personnel, and others, but must avoid any preferential treatment among NFEs.
  - (2) Exhibitor and Other Fees: DoD may invite exhibitors to submit applications to display products or services related to the subject matter of the conference and may charge fees for such a display.
    - (a) DoD personnel should avoid even the appearance of preferential treatment in the selection of exhibitors. E.g., avoid selecting exhibitors that are not closely related to the subject matter over more relevant exhibitors.

TIP: base selection on pre-established neutral criteria, subject to space availability.
    - (b) Fee collecting authority does not include authority to charge other Federal exhibitors a fee. Consider balancing the overall costs of the conference and the value of the Federal exhibitor's submission compared to those of industry exhibitors.
- c. Prohibited Fees and Arrangements:
- (1) The ability of DoD entities to collect fees from industry exhibitors or sponsors in a trade-like milieu presents a unique opportunity for ethical misadventures. Specific problems include:
    - (a) Giving preferential treatment to particular NFEs;
    - (b) Permitting the appearance that the conference is a joint venture of DoD and an NFE;

- (c) Endorsing an NFE; or
  - (d) Permitting an exhibitor to sponsor receptions or other meetings that give the exhibitor special access to senior DoD personnel.
- (2) Accordingly, the following practices should be avoided:
- (a) Allowing NFE logo on filler slides;
  - (b) Allowing and recognizing NFE sponsorship of a session in exchange for a fee;
  - (c) Granting an NFE naming rights to the conference;
  - (d) Giving special access to DoD senior officials for a sponsorship fee (Usually this is in the form of a reception or meal in which only NFE employees and DoD personnel are invited);
  - (e) Distributing exhibitor give-aways in conference materials;
  - (f) Having various levels of exhibitor sponsorship.
- (3) Generally accepted commercial conference funding practices may not be appropriate for DoD official conferences. Within the parameters established above, the following practices may be permissible:
- (a) Providing free attendance with the payment of exhibitor fees for a display booth;
  - (b) Providing advertisement opportunities in a program, as long as the ad is clearly indicated as such and includes a disclaimer that the ad does not constitute an endorsement by DoD;
  - (c) Providing mention of non-Federal non-conference events in the program and/or on the conference site (e.g., no NFE sponsored reception information);
  - (d) Providing mention in the program/agenda, at the conference site, and/or on the conference website of sponsorships, such as providing door prizes. Conference organizers should consult their ethics counselors regarding these situations.
- d. Conference Costs:
- (1) Conference costs may include the costs associated with a FAR compliant contract (including reasonable profit) to administer, coordinate, or manage the conference, including the collection of fees. Such costs are subject to separate reporting to Congress in accordance with the DoD FMR, and must be

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reasonable and within common business practices. Any amount collected by the contractor that exceeds a reasonable conference expense must be forwarded to the Treasury as miscellaneous receipts.

- (2) This authority does not supplement any other existing authority to pay conference costs and does not authorize the payment of any costs other than those currently authorized. See e.g., Chapter 4, Part C of the JFTR.
- e. DoD conference managers should consult with legal counsel to ensure compliance with applicable laws and regulations.
- f. The Secretary of Defense is required, no later than 45 days after the President submits a fiscal year budget, to submit to the congressional defense committees a budget justification document summarizing use of this authority. This guidance is contained in the DoD FMR, Volume 12, Chapter 32, paragraph 320402. DoD conference managers should ensure that they maintain and provide the following statutorily required information:
- (1) A list of all conferences conducted during the preceding two calendar years for which fees were collected;
  - (2) For each conference on the list –
    - (a) The name of the conference;
    - (b) The estimated DoD costs of the conference;
    - (c) The actual DoD costs of the conference;
    - (d) the amount of any conference coordinator fees;
    - (e) the total amount of fees collected;
    - (f) the total fees used to pay for the conference; and
    - (g) the total of excess fees deposited as a miscellaneous receipt.
  - (3) An estimate of the number of conferences for which fees will be collected during the calendar year in which the report is submitted
- g. DoD official seals and emblems may be used to promote the event. DoD personnel may officially promote the event.

#### G. Conference Expenses And Reimbursement.

1. Registration Fees when Travel Is Involved. Registration fees authorized in travel orders or approved on a travel claim voucher are reimbursable. The proportional meal rate applies on any day that the cost for one or two meals is included in the

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- registration fee. Information should be included on the order as to whether or not the registration fee includes charges for meals, and if so, the number of meals and the dates on which furnished. When the registration fee includes lodgings without charge, only the applicable proportional per diem or TDY locality M&IE rate prescribed in <http://www.defensetravel.dod.mil/perdiem/perdiemrates.html> is paid.
2. Registration fees when No Travel Is Involved. When attendance at a conference in the local area is authorized, the registration fee may be reimbursed for personnel who attend the conference as part of their official duties.
  3. Limitation on Reimbursement for Meal Costs when Attending a Conference/Meeting Sponsored by a DoD Component. The cost of each meal at a DoD-sponsored conference/meeting, whether included in a registration fee or contracted for separately, must be identified. The total amount paid by the Government for meals cannot exceed the locality meal rate prescribed for the TDY assignment location (if travel is involved) or the meeting location (when travel is not involved), unless actual expense allowance (AEA) reimbursement for the meal(s) involved has been authorized/approved in accordance with Chapter 4, Part C, JFTR. When travel is involved, the maximum contracted amount for 1 or 2 meals cannot exceed the difference between the locality meal rate and the proportional meal rate (PMR).
  4. Miscellaneous Expenses. Independent charges/fees for light refreshments/snacks are not a reimbursable expense for the attendee. Every effort should be made to require the facility to collect such expenses. Although individual personnel in their personal capacity may collect money from conference attendees as an unofficial fund to purchase snacks and refreshments, it may be risky for the personnel involved. It must also be a truly voluntary collection established independently of the conference, and the funds collected may not be commingled with official conference funds.
  5. ***Charges/fees for light refreshments/snacks are reimbursable ONLY when included as part of the conference registration fee.***
  6. Membership Fees and Dues. A DoD component may pay membership fees or dues to from appropriated funds when a determination was made that membership is needed for a significant and continuing DoD interest, and the membership is in the DoD component's name and not attached to any individual DoD official (e.g., Per Diem, Travel and Transportation Allowance Committee). 31 Comp. Gen. 398 (1952); 33 id. 126 (1953). A DoD component may not pay for an individual membership. 5 U.S.C. § 5946.
  7. Entertainment Expenses. Entertainment expenses for social events and other personal expenses not directly required by official duties are not reimbursable. See also GAO Letter, B-300826, 3/3/2006, above.
  8. Payment of honoraria. In accordance with Deputy Secretary of Defense memorandum of April 3, 2007, it is permissible to use appropriated funds to pay fees

to individuals for speeches, lectures, and presentations. Fees up to \$2,000 may be paid as honoraria. See DOD FMR, Volume 10, Chapter 12, paragraph 1208. Fees that exceed that amount must be approved in accordance with service policy.

9. Mementos. There is no authority to expend appropriated funds for such items as T-shirts, mugs, or other conference souvenirs. Unless the use of Official Representation Funds is appropriate, there is no authority to use appropriated funds to provide mementos to conference speakers. Gifts of such mementos offered by outside sources, if they are appropriate and qualify under gift acceptance statutes and regulations, may be accepted either by the agency (10 U.S.C. § 2601) or by attendees (5 C.F.R. § 2635, subpart B), as long as they do not otherwise raise appearance concerns.

H. Use Of Conference Facilitators. Private conference planners or facilitators may act to locate suitable facilities, assist with logistics, assist with planning the agenda, identify speakers, collecting conference or exhibitor fees, and compile material. But use of such facilitators must otherwise be in accordance with DoD and Government-wide rules and regulations, e.g., Federal Acquisition Regulation. They may also collect costs of unofficial activities available to attendees at no cost to the Government.

I. Use of Resources - Ethics Considerations.

1. Use of official seal/emblem/logo. A conference sponsored by a Federal Agency is an official event, consequently, official seals, and emblems, may be used to promote and endorse the event. Avoid use where it raises appearances of sanction or endorsement related to exhibitors.
2. Exhibitors et al. Any conference sponsored by a Federal agency is an official event, so agency officials must carefully consider involvement of non-Federal entities, such as exhibitors, conference planners etc.
3. Endorsement. Since a conference sponsored by a Federal agency is an official event, Government personnel may officially promote the event.

**IV. CONFERENCES SPONSORED BY NON-FEDERAL ENTITIES THAT RECEIVE SUPPORT FROM DOD**

- A. Guidance for Speakers: (See chapter on "Speaking, Participating in, and Attending Conferences and Meeting Sponsored by Non-Federal Entities").
- B. Use of Resources - Ethics Considerations: (See chapter on "Speaking, Participating in, and Attending Conferences and Meeting Sponsored by Non-Federal Entities" for additional restrictions. See also chapter on Relations with Non-Federal Entities for support to training conferences and to non-fundraising, non-training conferences.).

1. Use of official seal/emblem/logo. An event sponsored by an NFE is not an official event. The NFE may not use official seals or emblems, especially where it raises

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appearances of DoD sanction of the NFE, its conference, products or other activities.

In light of recent legislation, which authorizes DoD to license its trademarks, it is particularly important for DoD to prevent unapproved use of official seals or emblems. In the future, and in accordance with DoD guidance, DoD components may be permitted to license use of such logos.

2. Passing information through official channels. Under 3-208 of the JER, official channels may be used to notify DoD personnel of events of common interest that are sponsored by NFEs. In using those channels, DoD personnel must be careful not to endorse the event, solicit for the event, or go beyond providing factual information.
3. Sponsors, exhibitors, funding. NFEs may collect admission fees and engage sponsors and exhibitors.

## **V. CONFERENCES HELD IN CONJUNCTION WITH A NON-FEDERAL ENTITY**

- A. Co-Managing/Co-Sponsorship. See chapter on Relations with Non-Federal Entities for support to co-managed conferences. DoD has no authority to merge its funds with funds of an NFE to co-manage a conference. Whether DoD is solely sponsoring or co-managing an event, it is considered an official DoD event for purposes of application of the fiscal and ethical rules. Co-managed conferences may use the DoD Component's name, seal, emblem, or logo, but use may not raise appearance of DoD sanction or endorsement of any co-managed NFE.
- B. Contemporaneous, But Separate And Independent Conferences. In lieu of co-management, a DoD component may sponsor a conference and an NFE may sponsor a separate and distinct conference. These two events may be held at the same time and even co-located at the same facility, as long as they do not use the same physical space.
  1. The DoD conference must be planned as set forth in III, above. The DoD conference may welcome attendance by attendees of the NFE conference, but it must be under the same conditions as all other attendees.
  2. DoD may support the NFE-sponsored conference, as discussed in IV., above. That conference may welcome attendance by attendees of the DoD conference.